

City Council Work Session Transcript - 12/4/2012

>> Mayor Leffingwell: Good morning.

I'm austin mayor lee leffingwell.

A quorum is present so I'll call this work session to order on tuesday, DECEMBER 4th, 2012.

The time is 9:05 a.m.

We're meeting in the board and commissions room, austin city hall.

301 West second street, austin, texas.

Council, since we have a lot of folks here for one particular item, we'll go ahead and take that item first.

It is item d-1, a briefing by the city auditor regarding the redistricting process.

Then we'll go back to start from the top.

>> Good morning.

I'm tim laurie, the city auditor.

Today my office will be providing on 10-1.

Chief of investigation will be providing today's presentation.

This presentation will provide an overview of the process we are following, a proposed time line that we believe will allow for large, more diverse applicant pools, and that the process will be widely publicized and transparent.

We will also cover our outreach plan and budget requirements.

Further, we'll be presenting proposal revisions to the strategic audit plan to meet estimated requirements of the 10-1 initiative.

I would like to let Jason go ahead and make that presentation.

>> Good morning, Mayor, Mayor Pro Tem, Councilmembers.

As you all know, Austin voters passed Proposition 3 last month amending the charter to include a 10 one single member plan and requiring the city auditor to assist in this process.

As seen on this slide, it involves the creation of a Citizens Redistricting Commission which will ultimately draw the inlook and applicant review panel

which will select the most qualified applicants.

The requirements to serve are different.

The commissioner requirements include austin residency as well as voter registration and participation requirements and the panel requires MEMBERS TO BE ACTIVE CPAs With at least five years audit experience.

Subject to the same conflict of interests prohibitions outlined in the charter provision.

Citizens can visit our austin, gov/10 one to obtain more detailed information on requirements and conflict of interest prohibitions.

This slide is a high level overview of the process in general.

It begins with our office facilitating an application process for both the panel and commission.

During and immediately following the application period, our office will identify qualified applicants without conflicts of interest as defined by the charter.

We will then conduct a random drawing to try to recommend three panel members which will be done so in public.

We will provide panel members with remaining qualifications to the commission.

The panel is then responsible for narrowing that pool to the 60 most qualified applicants on the basis of relevant analytical skills and ability to be impartial, residency in the various parts of austin, and appreciation for austin's diverse demographics and geography.

Once the pool is narrowed to the 60 most qualified, the names will be provided to city council where each of you will have the ability to strike up to one applicant in writing.

The remaining pool will be provided to our office for another random drawing in public to identify the first eight commissioners.

Those eight are then responsible for selecting the remaining six to ensure the commission reflects the diversity of the city of austin including but not limited to racial, ethnic and gender diversity.

Applicants shall also be chosen based on relevant analytical skills and ability to be impartial and at least one commissioner must be a student duly enrolled in a college or university in austin.

Sorry, did not get that last one.

This table is a comparison of the dates set forth in the charter amendment to our proposed time line, section 3 b states if the date of the city election is moved the dates in the article shall be adjusted to ensure the commission has sufficient time to draw lines prior to the election day.

As you can see our proposed time line pushes back some of those dates but includes a number of advantages over the original date.

First, it would allow the commission an additional two months to draw the lines compared to the original time frame as well as additional two months between adoption of the final plan and the next election.

Our proposed time line would also allow for public input into the application process and sufficient time for our office to ensure the process

is widely publicized,
transparent and effective.

This would be accomplished
through a rules adoption
process which is the second
set of dates on the chart.

Finally, the proposed time
line would shift the
responsibilities of the
applicant review panel past
the tax and audit end of
year busy season.

Specifically asking
volunteers to give time
after april 15th increases
ability of them serving on
the panel.

With the limited number of
CPAs IN AUSTIN,
Approximately 3,000 active,
many of which have conflicts
of interest, ensuring the
maximum number of applicant
is effective.

Increased dates of
publication helping to
ensure an optimum number of
citizens are made aware of
the requirements and other
related information.

This slide highlights some
of the key pieces of our
outreach plan.

Later this evening we'll be
holding a public forum on
the best way to reach out to
all of austin's citizens and
what those requirements mean
to them.

That is, how do they interpret relevant analytical skills and ability to be impartial.

As seen on the last slide, we've incorporated at the city attorney's office formally adopting the rules and increase the likelihood this entire process is successful.

We also plan to host q and a sessions to address citizen inquiries and concerns and with assistance of the public information office we've developed a website dedicated to 10 one and have developed a facebook and twitter page to help publicize the process.

We're also working closely with the pio to ensure wide publicity across austin.

This slide presents our estimated budgetary needs.

It does not factor in expenses incurred related to the oca or other city offices payroll expenses.

That is, it does not include currently staffed time.

That concludes my portion of plan.

>> Thank you, jason.

We had a brief discussion about the proposed plan revisions at the last a.f.c.

Meeting and we're presenting now a little bit more firmed up plan.

The proposal additions to the single-member district project we're asking for an additional 1500 hours and there's also a request by to add parkland dedication audit to the current plan.

In order to achieve this, we are proposing deferrals of recruiting and social media audit and material purchases controls audit.

recruiting and hiring audit we think should be deferred in any case because of the civil service.

It would make sense not to do that audit until that civil service actually goes into place.

social immediate why and material purchase controls we think are while they are important to put in the plan, we think they can be deferred because their risk level is probably less than some of the other ones we're working on right now.

So we're proposing to offset these 2500 hours, we're proposing to defer the three projects shown in this slide.

We're open for any questions you may have at this point.

>> Mayor Leffingwell:
Questions?

Councilmember Martinez.

>> Martinez: Yeah, so I have one question.

When I look at the timeline that you guys provided to us, going down to the last two lines, it says that the commission will adopt the final plan on April 1, 2014.

So I presume at that point it has to go through D.O.J.

Preclearance.

And if that is the case, then it would only allow for about 30 days, maybe 35 days to get back before the 180-day campaign could start for a November election.

Is that correct?

>> We actually factored in pre-clearance submission earlier in our process but I would like to bring John Steiner up from the law department who could talk more accurately about that.

>> Martinez: Just trying to get a sense of where preclearance is within this time line and why isn't it on the time line?

>> Well, the presentation today, of course, is about the auditor's piece of this process, but the anticipated date of the implementation in november 2014 would have time for us to achieve the necessary preclearance, and I think that we would not anticipate that there's any retrogression in any of the proposals here so everything should go in a more or less expected and good way and i think that a campaign could proceed without any further effect.

But we can get into this in more detail in the executive session if you want to ask

[09:14:01]

preclearance counsel when they are available there.

So I don't think that's going to present -- I don't think there's anything in the auditor's plan that will adversely effect our pre-clearance and I don't think there is anything in our expected preclearance issues that are adversely going to affect the auditor's plan.

Nothing in the city's proposal is -- well, nothing in the 10 one plan is reive, which is the standard under preclearance under section 5.

And so we hope, believe and expect that everything will go in a very routine way along those lines.

>> Martinez: Sounds like based on your response that your anticipation is that campaigns will begin as preclearance is taking place.

>> That may be the case depending on the timing, yeah.

>> Mayor Leffingwell: Councimember spelman.

>> Spelman: A followup, who is going to be staffing that commission?

Your job or the city clerk or who is going to handle that?

>> At this point our charge is to get the pools, the large diverse pools and go through that point in time.

We have no charge to go beyond that particular point in time and I guess from my perspective when we look at it, there's going to be probably more legal issues that may be coming up and

more staffing issues so we don't have an answer for that.

>> Spelman: Seems to me they are going to need access to a demographer to work on the map issue and we'll do consequences of different kinds of maps and probably legal assistance which they may want to get from legal counsel or our city attorney.

But the charter amendment is silent as to whether it's going to be staffed by you or somebody else.

And you are not volunteering to take on that role, i

[09:16:00]

presume.

>> I don't think we're probably the right people to be doing that so I think, you know, a lot of -- we would just be I guess in the middle of trying to get individuals to get the job done, but when I look at it, it looks like they are going to need a different kind of assistance rather than auditor's assistance.

>> Spelman: That seems reasonable to me.

At which point -- and i notice that you are having the eight select six

remaining members which would be the end of your end of the process really is when the entire commission gets selected and your support is then -- becomes voluntarily, it's no longer mandated by the charter commission on the 30th of august, which is two months after the original seduced forward.

Set forward.

You are just penciling in the first of april because you are not going to be staffing those guys and who mandates the commission is going to be the commission and their staff.

That's really not your job.

>> That's our understanding, yes.

>> Spelman: They are going to have basically as much time, considerably more time under this schedule than they did under the original schedule regardless of whether it's the first of april or first of march or whatever time frame we have.

So there's plenty of time to get the thing done if it turns out we anticipate more than 35 days is going to be required for pre-clearance.

>> Yes.

This time line has more time in it for all different processes.

>> Spelman: Right, right, okay.

And presumably if we're going to have a preclearance problem with the map, we're going to know about that in advance and we can build it and move more time to send that map along.

Would that be a fair statement, john?

>> Yes.

SPECIAL SMELL THE FAIRER>> Spelman: The fairer statement is 10 one is more representative than what we have right now.

>> Yes.

We have no expectation that anything will be found to be

[09:18:09]

retrogressive.

>> Spelman: And it's not -- john, could you shed light as to what it is would be providing staff for the commission itself?

>> The amendment is silent on that point.

Obviously they will need the sort of nuts and bolts things like a room to meet

in and, you know, maybe a coffee urn or something along those lines.

>> Spelman: Maybe several of those.

>> So I think that the city can easily work that out.

We're used to staffing boards and commissions and we can find a way to make that happen.

>> Spelman: But that's something we're going to have to talk about.

>> Sure.

This is the first time that any of this has ever been implemented, obviously, and so we'll be learning as we go this time and hopefully we'll set a good model for when this happens again in eight years and then in 18 years.

>> Spelman: But no more frequently than that, i hope.

Thanks.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I know that we have a tight schedule and that makes it easier to [inaudible], but john, i want to ask you --

>> mayor pro tem, your mic.

>> Cole: I want to appreciate you've built in more time to get this done in the time line for the auditor, but that a significant amount of it actually does not cover what you will be doing.

So I want to ask you, john, is there anything in the time line that we've been presented that would prohibit us from any type of expedited review by the justice department?

>> No, we could ask for that.

>> Cole: And how would that impact the time line?

It would just give us more time to hear back from justice?

>> If -- well, if they were able to respond to us more quickly than their 60-day deadline, that would, of course, give us more certainty early on in the process.

>> Cole: Okay.

[09:20:00]

Thank you, mayor.

>> Mayor Leffingwell:
Councilmember riley.

>> Riley: I appreciate your efforts to establish and publicize the application process for the -- both the panel and the commission because i know a lot of citizens are interested in serving on this.

I do want to raise one question that has been brought to my attention since this began and that relates to eligibility for those two things, especially eligibility for commission.

I heard from a friend of mine in anderson mill, a long-time resident of anderson mill who is interested in applying for the commission.

Anderson mill was annexed four years ago and under section 3d of the -- of the new provisions, it looks like each commissioner must have been a voter who has been continuously registered in the city of austin for five or more years immediately preceding the date of his or her appointment.

According to the city demographer, since january 1 of 2008, five years ago, the city has annexed 25,708 individuals.

So I just want to make sure for purposes of clarity that

we're all agreed that those folks who are long-time residents of areas that were annexed, those 26 -- roughly 26,000 folks annexed over the last four years, those folks are not eligible even though they have been living in those areas a long time, they haven't actually been registered in the city of austin for five or more years.

Is that your understanding that those folks would not be eligible?

>> That's my understanding, but maybe I ought to let the city attorney's office speak to that.

>> As we're going through this provision, we have come across a number of interpreted issues and going to have to come

[09:22:02]

to shore in those situations.

One of the reasons for the rule adoption process is put our proposed interpretations out for public comment.

There are a number of things in the tradition that you could read in a number of different ways and so we want to stay as close as we can to the text and not be just making stuff up.

And on the other hand there are some things that we're going to have to decide how they should be read because they could be reasonably read in a number of ways.

And by going through a process by which we publicize how we mean to interpret that, we have a chance to get some public input and to be completely transparent about what we need to do.

I think our intention is that the auditors' task of removing the people who either have a conflict of interest or don't meet the qualifications should be as objective as possible and to take as much as we can any ability to apply discretion after the fact out of it.

So that when people fill out the application, they have a reasonable knowledge of whether or not yes they meet the qualification.

To answer your question, there is nothing in the provision that suggests that a provision -- that there's any kind of grandfathering or saving provision for recently annexed areas.

Presumably they would be eligible the next time but possibly not this.

>> It's our intent even though we have to follow the requirements, it is our intent to be as inclusive as we can be so that's the mode that we operate in.

[09:24:00]

If we can't be, then we can't be.

>> Sure, sure.

No, I appreciate that and i just want to be completely transparent about the requirements and I think if we need -- we need to be clear on this one that folks that have been annexed in the last five years under our current interpretation would not be eligible to serve.

But would be eligible the next time.

>> I think there's other issues we need to address like someone who maybe moved from austin into the area and I think those things would have to be flushed out as john is discussing because there may be some exceptions.

>> Riley: And there may be folks in those annexed areas who, say, they moved from some other part of office to that annexed area, they would still be he will jill.

But if you've been living in anderson mill the last ten years and it was only annexed four years you are not eligible at this time.

>> Keep in mind too it's not just a person has to have been continuously registered for five years, but they have have voted in three of the last five city general elections.

>> Riley: Right.

>> Which also extends back quite a number of years as well.

>> Riley: Okay.

>> Mayor Leffingwell:
Councimember spelman.

>> Spelman: I didn't expect to have another question but this raises -- this bothers me.

If the -- there is a legally responsible interpretation of the amendment which would allow the person that councilmember riley was talking about that's been a resident of anderson mill for seven years, say, hasn't moved, been in the same place, but only a resident of the city of austin for three years, four years, just basically mixed the cut by a few months, seems if there is a responsible interpretation of the law

that would allow that person to be a member of this commission, presumably they are going to be a member, we don't disannex areas, seems to me we ought to adopt that

[09:26:02]

reading.

If we can't do it, we can't do it, I understand it, but you talk about interpretation issues, i understand you would be close to the text.

In this case I think there is a bigger principle which is be as inclusive as possible.

The text may not have been written as carefully as it should.

I don't want you to make a snap judgment on this, john, but seems there's a couple of principles going on and seems to me at least the principle of inclusion is a lot more important of the principle of remaining as close to the text as possible so long as we could be defensible in that interpretation.

>> I agree on the point of not making a snap judgment.

>> Spelman: We agree on that.

Maybe very should stop talking now.

>> Mayor Leffingwell: Can I make a comment on that because respectfully i disagree with that.

I think the selection process should be err on the side of being overly restrictive for the simple reason it seems to me if you have a situation where the commission itself is vulnerable to legal challenge, then that could throw the whole pot -- throw the whole process awry.

It seems to me to make sure that the literal word of the qualifications of commissioners come right out of the charter language to make sure that the commission itself stays intact throughout the process.

That's just my opinion.

Councilmember morrison.

>> Morrison: I was going to move on to a little bit of a different topic so if you wanted to -- I would be happy to have him --

>> the closing point I want to make on this issue is whatever our legal opinions are as they've started today, we need to get those out to the public so we can

start public comment this evening.

Because for every statement that's made, there seems to be a conflicting opinion by

[09:28:01]

somebody else regarding this process.

I realize that if we get the maps drawn by august as the time line states, you know, it could be plenty of time to have it done in three months and then start the pre-clearance process, but does this interpretation of the commission shall adopt a final plan on april 1st mandate that we wait until APRIL 1st?

It says shall and it says on that day.

Again, my point is let's get these legal opinions out there, let's get the citizen input that we need and get the legal advice we need to make sure, one, that we're conducting the process as appropriately as we can, but to go back to your point, we did have one area deannex.

The city didn't but the citizens triggered that and that was in harris branch.

There are unique cases but it's not the norm.

We've got to figure out who qualifies, get this commission up and running so we can have these districts running and folks can run and do the election without having to worry about pre-clearance hanging over their head and any other issues for that matter.

>> Mayor, I have a question.

I think this is some what related.

>> Mayor Leffingwell:
Councilmember morrison.

>> Morrison: If I could just throw this on the table.

I would be interested to know, you mention there are several interpretive issues we're going to run into.

Would it be possible to run through what those are right here because I'm very interested to know and i think it might help the conversation later this evening if we could know exactly what the thought is on where interpretation is going to come into play.

>> Yes.

If I could just address the public input on the interpretation first and then I'll get to this question.

Just pointing out the time line, the second line on there the rules adoption, i know the dates are vague, we just say december 2012 through january 2013, but what we envision is hopefully by the end of next week having our draft rules

[09:30:01]

and those applications finalized, putting them out for public comment and there will be a 30-day period where citizens can review those, ask questions, comment on things they find ambiguous or unclear or disagrees and we'll be able to incorporate that feedback in mid-january 2013 so there will be a month process where they can address those interpretive issues.

Getting back to some of the specific items, just going off the top of my head, there's a number of them.

We've looked at, for example, qualified independent auditor.

That's a term that was in there, in the charter provision.

That's not a term really used in the audit industry and so that was something we've had to interpret, and again, we're trying to interpret as broadly as

possible, focusing on the requirement for licensure by the texas board of public accountancy.

We're looking at active cpa in austin who has had five years independent audit experience.

So trying to include as many people as possible.

In the conflict of interest requirements, there's a prohibition against individuals who have had a professional contract with the city, with the city council or with city councilmembers.

And so we're working on developing an interpretation of someone who may have had a professional contract with anyone on city council.

And trying to shore up what that means.

How far does that extend.

Those are a couple that come up to me.

>> And councilmember, just going back to the rules process, that is the process we put in place to lay all those out, get them out for public comment over a 30-day period to try to get feedback on from individuals about these ambiguous items that it's not clearly

defined in the actual text
of the charter.

So that is the process we're
trying to follow at this
point.

>> Morrison: Right, and

[09:32:00]

you've already mentioned
tonight, for instance,
looking for input on
relevant analytic skills and
how we might interpret that
and is there something also
about objectist?

>> Impartiality.

>> Morrison: How that
could be demonstrated i
guess would be --

>> the process tonight is
really focused on
identifying a large pool for
both of the panel and the
commission of people that
are qualified but
particularly the commission
at this point.

And so there's some terms
that were included in the
language of the charter so
we want input with regard to
that, but it's not really to
discuss all this stuff we're
talking about here, it's
just to get help in doing
that.

And then if you look at the
schedule, some of this stuff

will then be used to address the applications, the interpretation of the rules, what are some of the things we need to interpret in the rules.

So we're looking for a the look of citizen input with regard to that.

>> Morrison: Okay, and i think it's really important and laudible that you are interested in laying out a draft of those rules once it all comes together so there's ample opportunity for participation and comment on that.

And then also laudible i think is the -- the advertising and community outreach that you are looking at and I do want to draw our attention to the fact that in terms of the resources that are going to be needed, the budgetary needs, we know that you've managed -- you are proposing to manage the additional staff hours by adjusting the service plan, but I believe that that still leaves the whole of \$72,500 for the -- for the advertising and supplies.

Is that correct?

>> That is correct.

>> Morrison: And so i guess my question is how do

we move forward to make those funds available.

>> I think we would have to go through a budget amendment process in order to accommodate that need.

>> Morrison: And is that something that will be coming -- I guess we would probably need to have that approved very soon because

[09:34:00]

the advertising needs to start very soon.

>> Right.

>> Morrison: And so is that something that you all will be able to help us with city manager?

>> It is, and I've made available our financial services area to assist ken and -- and putting together a budget and identifying a funding source to assist him.

So he already knows all that so we're doing all we can to help him with the financial support that he needs and any other support that he needs.

>> Morrison: Is he going to do magic where there is no money and all of a sudden there is?

>> Call it magic dust.

>> Morrison: Okay.

Thank you.

>> Mayor Leffingwell: No doubt there will be several budget amendments as we go through this process for legal expenses and others that might be unforeseen, renovation, et cetera.

>> Cole: I had a question.

>> Mayor Leffingwell: Mayor pro tem cole cole i wanted to go back because it seems like we're dealing with two different issues when we talk about our discretion for interpretation.

I think there was one issue when the charter amendment is actually silent and you are trying to interpret what it means to be a qualifying independent auditor.

And then there's another issue when the statute actually speaks to like the item that councilmember riley and spelman spoke to residency.

So is it silent on what constitutes a qualified independent auditor?

>> The -- the language defines qualified independent auditor -- the

issue that we took with it,
that was in the term that
isn't really used in our
industry and there was
some -- some room for
interpretation.

I've got the definition
here.

It says qualified
independent auditor means an
auditor currently licensed
by the texas board of public
accountancy and has been a

[09:36:01]

practicing auditor for at
least five years prior to
appointment to the applicant
review panel.

That term practicing
independent auditor is
something not commonly used
so we had to work on
defining that and how are we
going to interpret that.

>> Cole: So it sounds to
me like you actually looked
at the actual language of
the charter and you made a
strict interpretation of
that language based on what
was common in the field.

Now I want to compare that
to what john is talking
about in terms of any
independent interpretations
that are supposed to be made
outside that realm.

Is there anything that you are contemplating right now such as the item that we talked about before residency where -- I guess i don't want to see us getting into nebulous land of wriggle room or encouraging the public to make comments about something when there really is no -- there is no wiggle room.

So --

>> yes, councilmember.

I think we should stay as close to the text as we possibly can.

But there are some areas in which we're going to have to decide what terms mean.

Jason said, for example, professional contract with a councilmember.

We're going to have to decide what is a professional contract.

>> Cole: Okay.

>> So that when a person is asked the question on the application have you ever had one, they would have a fighting chance of knowing how to answer yes or no.

And the -- so some of the things lend themselves to coming up with further definition.

Some of the areas where the -- the charter is silent and suggests by itself a resolution, I think that's probably often going to be the best resolution is just to let the charter speak for

[09:38:00]

itself when it can.

But as I say, this is our first run-through and we think transparency and letting everybody know how the auditor intends to read it is probably a very good idea and maybe some people out there have some ideas that we haven't thought about.

>> Councilmember, there was an indication that we're interpreting qualified independent auditors strictly.

Actually the way we're approaching it is it has to be a cpa because it has to be licensed.

When we look at the audit experience, it could be at any time they've been a cpa and we're probably going to define an active one or one that's based on what it says on their license they are active, whether they are actually auditing at that point we're not necessarily going to look at that but whether they are active in

the state board of accountancy with regard to that.

We're also looking at auditing, some people may strictly would say you have to be a cpa practicing in public.

We're interpreting they could be doing independent awed it's.

For example, the state audit does independent audits with regard to agencies.

We're going to interpret it in the broader sense primarily because we think it's going to be -- we've been worried about having sufficient candidates for that three-person panel given the limited number of cpa degrees and the fact a lot of them don't live in the city, maybe trying to finish the annual audit and continuing to work on taxes.

That's where we extended the time.

So we think that's within a reasonable interpretation of what is meant by this.

But we'll be getting input as you said in the rules process as we go forward from looking at that.

>> Cole: Okay.

And I just want to commend you on making actual suggestions for how we could revise our audits so that we stayed within the scope of the hours that are actually

[09:40:00]

existing so -- and we didn't have to abandon major audits for that.

And I wanted to note that the amount that is requested for the budgetary needs is slightly in excess of the city manager's authority and I'm assuming that we may need a budget amendment or because these costs will actually come over time we may not be looking to see that immediately or how are you planning to do that?

>> Well, I think as the mayor indicated, we're probably going to be talking about over time more than one budget amendment.

And in regard to the matter the dollars that are in this power point, I would assume unless he identifies more costs beyond that, we would simply bring a budget amendment forward to council.

Much better than some piecemeal approach, we're going to try to as much as possible accomplish it in the aggregate.

>> Cole: Thank you, mayor.

>> If I may, I just want to emphasize this budgetary money is just for our portion of it.

It does not -- it's no budget for the panel and/or commission.

We don't know what their costs will be.

>> Mayor Leffingwell: One final question from me and it doesn't have to be answered today, maybe it's something to think about, but the council's only participation in this process is striking members from the qualified pool from however many that is.

Have you thought any about a process for doing that?

Because I think -- I'm thinking you may want to have a public process for that wherewithal the councilmembers in one room so that we don't have seven people striking the same person, that kind of thing?

[Laughter]
so it's just something to think about.

It's not as simple as it sounds.

Any other questions?

All right.

Thank you very much.

[09:42:00]

Good luck.

Councilmember tovo.

>> Tovo: One quick question.

Almost made it but then i had one.

I assume you are probably going to talk about the calendar as well.

And if not, I guess I would suggest that would be very helpful to get some public feedback if not through that forum through another means of how the community feels about the proposed shift in dates because, you know, that's something we want to get right.

>> We anticipate working and to the extent possible as many of the time line deadlines into our adoption process so we would have those in our rules as much as we can feasibly accomplish that.

>> Tovo: Does that mean that won't be a subject at tonight's forum necessarily but it will be part of the public comment during the rules adoption?

>> We think with the agenda we have it's going to take all the time available tonight and we think for right now the most important thing we need to do is get feedback about how to get the word out.

So we try to set up the schedules as we approach these issues to the public in a methodical, well thought out way so we get the information on a timely basis and are able to incorporate in the approach we have.

Actually the feedback tonight as they give us feedback on how to get out there and get it widely publicized may impact the schedule.

We don't anticipate it will.

We think we've done a good job of anticipating what's going to occur, but it's possible some unintended consequences, some unknown factor we need to consider during these meetings and obviously we want to discover that up front rather than later on in the process.

>> Tovo: Okay.

But it does sound as if the public will have an

[09:44:00]

opportunity to comment on the proposed time line during the rules adoption process.

>> Actually also we have the website where they can comment.

We have a lot they can just write in for people that don't have access to the pc's.

At any point during this process if someone has a comment, we will make sure it's addressed in what we're doing or considered in what we're doing.

Not sure we can incorporate everything everybody says.

>> Tovo: Thank you.

Thanks for all your work on this.

>> Mayor Leffingwell:
Thank you.

Okay, now, we'll go back to our pre-selected agenda items and begin with item number 42.

Which was marked for discussion by councilmember tovo.

>> Tovo: Thanks.

And mayor, I know --

>> Mayor Leffingwell: Take just a minute to clear the room and maybe sure we have the appropriate people.

>> Tovo: I have at least one other issue to talk about that was not pre-selected so I hope we have time to get to that one too.

>> Mayor Leffingwell: We'll go in order and you will be the first, yours will be the first item that's not pre-selected.

>> Tovo: And that's 87, just for reference.

>> Mayor Leffingwell: All right.

I'll write it down now.

Go ahead.

>> Tovo: Good morning.

Thanks for being here.

Excuse me.

I have a few questions about this grant and the authorization that we are contemplating on thursday.

So the -- the grant was a total of a million dollars.

And 300,000 of which is proposed to be used for

[09:46:00]

research and evaluation and go directly through an interlocal agreement with a u.t. professor and staff.

And I wondered, you know, i have read through this morning detailed discussion of the city -- of the criminal justice innovation grant, but I wondered if you could talk through what some of the other eligible expenses are.

Is there a requirement as part of this -- as part of the grant that the city contract, you know, almost a third of the grant for evaluation purposes.

>> There was a requirement in the grant that the city has a research partner and so yes, we were required to contract with a university or research entity.

I can't say for certain there is a required amount, but when we looked at the proposal and put that together to get the university of texas to do what we believed was in the best interest of this grant, that was the terms that we came to.

And we actually were able to reduce that cost by
kirk
to office at a city facility while he was working on this.

So through doing that the university of texas actually lowered their rate for indirect costs down to 15%.

I believe their standard is either 45 or 55%.

>> Tovo: I have a variety of questions about that, but I guess my first one is why couldn't the professor office at the university of texas.

My guess would be that he has won.

>> Yes, and he could have, but then when we contract with the university of texas, they have set policies and procedures for how they contract their services.

We were able to reduce the cost by giving him space that we had available at the department so therefore they charged us 15% for the indirect cost instead of their standard which i believe is either 45 or 50%.

>> Tovo: So what are some other ways that this grant could be used.

I guess I'll get right to the point.

[09:48:00]

It seems like I understand with almost every grant

you've got a responsibility to conduct research and measure, you know, set performance measures and do an evaluation, but to fund almost a third of the grant on that just -- you know, i guess I just wanted to know what are some other -- could you also use it for programming?

Could you use the grant for implementing some innovative programming in that same targeted area and are we spending more on evaluation than needs to be spent.

And I guess I'm less interested in what the price than I am what the police department envisioned as appropriate for the scale of what you are trying to accomplish.

>> Sure.

And I believe maybe the best way to approach this would be the purpose of this grant from the government.

This was a very competitive grant.

We were one of I believe 11 projects funded through this grant and it was because of the parameters that we put on our submission.

This grant is geared towards effecting long-term change

instead of just enforcement grant.

Routinely we get enforcement grants just to go in and conduct additional overtime, additional enforcement efforts.

This grant, the purpose was to attain long-term change in the neighborhood and so we -- we are going to rely very heavily on the university of texas and kirk to go in there and give us ideas and strategies for affecting that long term change outside the realm of law enforcement.

It may be dealing with economic growth, with reentry with at-risk youth.

And so that's the real backbone, I believe, of this project and it's what makes it very different than things we've done before is that we're going to have a research partner that this is their field of expertise that's going to give us a lot of insight into how we can then leverage the dollars we put aside for enforcement.

I do think that there will

[09:50:00]

be project recommendations that will come out of this.

It would be premature to speculate what they may be, kirk's area of expertise and I expect we will walk away from this three-year project with some really good ideas of how we can keep long-term change in that area.

And if you've seen the documents, I'm sure you realize that we've got i believe it's 5% of the city's population, 2% of the city's square mileage, but 11% of the crime is occurring in that area.

>> Tovo: Right, and i should have maybe started by saying I think it's a very exciting opportunity to really focus concerted efforts on an area of our city that really needs it and, you know, I certainly like the general philosophy of it.

Can you help me understand, though, whether the program -- you talked about and this document I've got talks about program recommendations.

I'll read the objective: Identify, build upon new planning efforts to revitalize the neighborhood and address issues that relate to the crime issues identified.

Will you be using the grant to implement any of those program recommendations?

>> The grant will be used -- some of the program implementation will involve enforcement strategies and there are dollars in the grant for the enforcement piece.

As far as for other entities, there is \$200,000 built into this grant that we will be bringing to council at some point when we contract with other social service agencies.

So there is another component of this million dollar grant that is going to go through social service providers and those will be kirk does his work and we can get a better feel for what work needs to be done in this region.

>> Tovo: And so in looking through the budget, I see -- you know, I see some breakdown of costs, a consultant, the university of texas, the social service

[09:52:01]

contracts you mentioned, enforcement operations.

There was a discussion in here about the collaboration will focus on social

disorder, language barriers, at-risk youth, nuisance abatement, but I don't see any funds allocated in the budget to do any particular programs with at-risk youth, for example.

That's really the balance i was hoping to have a dialogue about either today or thursday or in the interim.

Are there opportunities to bring programs and resources to that community during the period of grant rather than just, you know, focus so much on evaluating?

You know it a high crime area and I know the police department has done a lot of thinking and creative work in introducing programs that make a difference.

Is this program going to fund any of that?

>> The social agencies written into the grant for the \$200,000, I believe we'll be able to see some dollars from that portion of the grant go towards project implementation.

I don't know what that will look like yet because we haven't done the research to determine what social service agencies we will even bring in under this program.

But I do envision there will be some dollars available out of the \$200,000 for those social service agencies that can go to that direction.

The \$300,000 is tightly governed as far as the fees research staff to conduct the research associated with the grant.

>> Tovo: And that's basically because that's the price they gave you for performing that.

>> And once we submit that to the federal government we're going to be tightly regulated to conform to the grant application that we submitted.

>> Tovo: In the grant application you submitted, you identified 300,000 would go toward that evaluation?

>> We actually gave them a budget piece that specified how we would spend the spends.

They required that in the grant.

[09:54:00]

>> Tovo: I see that the document, the longer document talks about the budget proposed is the city's best estimate, of course, costs and will

likely require significant revisions once the implementation plan is complete and the justice department gives final approval.

So it sounds to me like there are opportunities for a vision, and in fact the justice department may require some.

>> As with any grant, i think we can go back and try to make an amendment to it.

It would require the approval of the federal government and you always run the risk obviously of them denying the request or -- or holding you to the proposal as originally given.

>> Tovo: Sure, but they are unlikely to -- I don't know of a situation where they turned around and said we're denying the revision and taking the money back.

They will just say we don't agree with that change.

>> I would agree with that.

>> Tovo: I'm going to do some more thinking about it and talking about it, but this is an area of our city that I think could benefit from some more programs and in fact I believe I attended a discussion that the

greater crime commission
talked about about this area
and does this overlap with
the area that was discussed
at the greater crime
commission where they were
talking about some of the
concerted efforts like
potentially a community
garden and some other
things?

>> I'm not sure of the
alignment of this with that.

The unwith comment I would
add is one of the key
components of this grant was
the research component.

And so I do understand that
you are wanting to see if
there are opportunities and
if we look into the portion
that's dedicated to the
research portion, we're kind
of going at the heart of
what was laid out in the
grant proposal when they
gave us the documents when
we submitted this.

>> Tovo: What I think I'm
hearing is that less than
200,000 of a million dollar
grant is actually going to
go into program -- you know,
programs that might make an
impact in that neighborhood
and that --

[09:56:00]

>> we will have over 400,000
that will go towards
enforcement programs in the

neighborhood to effect greater change, and then on top of that 400,000 another 200,000 will go towards social service agencies going into effect change.

I think what we've got is two-thirds going towards programs whether they be enforcement based or social service based, and then the third towards the research component.

>> Tovo: We have an item on our agenda also for this week and it is to -- of the parks department, it's a budget line in the parks department and that is a midnight basketball program aimed at at-risk youth.

Would that be a eligible expense under the terms of this grant, under the terms of the criminal justice innovation program, that kind of program that's targeting at-risk group within a particular geographic area of focus?

>> That is not written into the grant right now and i would have to get with our grant writer to see if that's something that could full under -- I won't make any projections.

If it's not a social service agency, I don't know whether the federal government would police chief that falls

under the \$200,000 we allocated in that direction.

>> Tovo: I guess would it have -- is it just a matter of how you crafted the grant or is it -- is the scope of the grant pretty much limited to social service outreach or could the grant have funded more programmatic approaches like youth for its programs?

>> The grant solicitation itself was very tightly defined and I would have to look at whether a program like that, especially a program that already exists because we get into the area of potentially supplanting if you have a program that already exists and so that's something we would have to look at both with our grant writer as well as with our legal adviser.

>> Tovo: Right, whether or not this is for new efforts versus others.

[09:58:00]

And I guess my basic reasons for asking is that I had a conversation with the chief and I know he talked about the police athletic league and there's a high interest in, say, boxing, he may have mentioned, there were hundreds on the waiting list and that's a program that doesn't have funding.

I remember when we were looking at the parks and recreation programs at gus garcia recreation center which is quite close to the neighborhood of focus here, there was a youth program for teens that was being cut and -- but I wonder if there's not an opportunity to really think about how we might -- how this grant could provide an opportunity to focus on some of the programs that it would seem to me the parks department and the police department has a record -- of doing successfully and a connection between the programs and crime prevention.

>> Councilmember, michael McDONALD, DEPUTY CITY Manager.

The reason I came up, i think it's one thing important to understand in these types of grants and the way the assistant chief has talked about how tightly defined they are, let's just say, for example, we don't need quite as much in the research area.

It doesn't necessarily mean those additional dollars are going to stay here in this community.

A lot of times what they will do is they will monitor you on these grants and if

certain amounts of dollars
aren't used in other areas
and they have a void in
another area they've awarded
the grant, they will
sometimes take those dollars
and use it in that area.

So I just want to make sure
as we talk about this we
understand that the
flexibility to just move
those dollars around, you
know, generally the federal
government doesn't give us
that level of flexibility.

[One moment, please, for
change in captioners]
budget to the federal government
and they've approved it and we
have the difficult choice of
revising a grant or asking for a
revision and the possibility
those grant funds may be shifted
to another awardee.

>> Seeing the document you have
in front of you, I seem to
remember talking about the short
time line to apply for this
grant.

We were notified of it very late
so there was a shorter
preparation time than we
normally have, and, again, we
consider ourselves fortunate to
have received that.

But, the short answer to your
question is we do routinely
coordinate with our partner,
city agencies.

Going forward, our first meeting is december 18 where we will meet with the neighborhood stakeholders, as well as other city departments, to start the planning process for how we're going to roll out this three-year program.

>> It sounds like that coordination didn't necessarily happen on this one.

>> I would have to get with our grant writetory see to what extent the other agencies were involved in the situation.

>> Thanks.

>> Assistant city manager.

Yes, I think ideally, what we would do, while we continue our focus on youth services, as you recall one of our goals is to get to a point, from a policy direction, we get pretty establish values from the council perspective how we want to deliver quality youth programs throughout the whole community, and so our goal is, when we get to that point, then we would align all of these issues, whether it is a grant in the police department or whether it is a neighborhood housing or wherever the case may be, align them to those values and in effect, assure them that everything points to those values and that we're connecting all of those specific dots.

That's our ultimate goal.

I can't say we're totally 100% there yet but that is where we want to get to and I think we're doing a lot of great work in that area.

>> I look forward to the continued discussions and i really congratulate you on the grant.

I think it will have a measurable impact.

I think when we have resources, we're using them as creatively as possible, and programs seem to be one way to do that.

I think I've asked what I needed to ask here today.

>> Thank you.

chief McDonald, I know the midnight basketball issue has been around and a while and successful.

You did want to speak to that while you're here?

>> Council member, I would ask if it is related to the item we're discussing, which is item 42.

>> I tonight bring it up because council member tovo talked about the grant possibly being used for that item and I believe you said -- I'm trying to remember what you said.

>> Part of what I was speaking to was just the flexibility or

the lack there of, in some cases, on some of these grants when they're awards to the areas like they keep you pretty strict on it.

If you end up not being able to -- or don't need as much of the funding in a certain area, sometimes if there is another area that slacking, that's the adjustment they will make.

But, specifically, for midnight basketball, it is a very involved program.

In fact, the police chief was very involved in conversations this past year during the budget process with midnight basketball and how the police department can coordinate with the parks department, so it is a valued program.

>> Okay.

Thank you.

Thank you for your comments.

Council member spelman.

>> I haven't responded to a solicitation to this particular class of grant, but I respond to a lot of solicitations by the department of justice, and i think I have an idea what they're looking for in this particular grant.

I want to see whether or not i pretty much got it right.

The way we usually try and solve crime problems in a neighborhood, the way it is usually done is we draw a red stripe around some part of town and we say, what can we do in this part of town?

We can do midnight basketball.

We can do social services, we throw it all up against the wall and figure out what sticks.

My reading of what you're doing here is more complicated.

We still have a large repertoire of activities.

First we have to go into the neighborhood and figure out what it needs.

What is the problem?

What are the problems we're trying to address?

And using that research information to drive the program itself so we're tailoring the mix of activities to fit the needs of the neighborhood is that accurate?

>> I believe that is a fair assessment.

That's why, when you look at the budget piece, there is very little allocated for enforcement elements because we want it to be analysis.

In year two and three when we put dollars into it, we have new strategies and new items, not things in the past.

Although they are effective, we want a new strategy and approach that will give us a better opportunity for long-term improvement.

>> It is entirely possible that midnight basketball might spin out as one of the things that is effective and appropriate.

>> Absolutely.

>> It could be that any number of social services are appropriate, any number of enforcement activities are appropriate.

You can't identify what it is yet in advance of what the neighborhood needs.

>> We're looking for the research piece to steer news maybe a familiar direction.

>> Ask you about that.

The primary work is done by the university of texas research team headed by dr. kirk.

I presume he will be involving you in this along the way.

We will be in a large part supplying a lot of the data he will need because this will be based on particular pattern,

crime trends and things like that.

So we will heavily provide him with the data.

He will involve us with the interntation of the data, as well.

We're in a better possession to national the crime statistics and patterns.

>> You live there in a way that the university of texas folks probably don't.

kirk was talking about doing wind shield surveys, driving up and down and idea identify what you can see.

Police officers do that all day long.

If the \$300,000 were allocated to the university of texas, i think it would be fair to say a lot of that is the up front research fees to tailor the program for the research fees.

Evaluation is really a separate issue.

And, the university of texas happens to be doing both of those two parts of that is that accurate?

>> Actually, the lion's share of the money for ut will come in at the lion's share of 50,000.

It will conduct the initial survey and get as you baseline.

Year two, allocated at 150,000, and that will be to continue the surveying and to analyze the programs as they're implemented.

Year two is the implementation year, to a large part, and so we want to be evaluating the programs as they're implemented and have opportunity to fine-tune them, not wait until year three analysis and assessment.

I want to give you a fair assessment not the lion's share of the dollars will go in on year one, but year one will set the baseline from which we will operate.

>> And the evaluation piece will have two parts of it.

One is to verify the program or the set of things that you line up in order to solve this problem actually get implemented and verify how they're being implemented, and the outcome evaluation, now that we've done that, we can verify all that stuff got done what actually happened and why it happened the way it did.

Why did crime go down why did disorder get better.

What parts of the things we did are responsible for solving the program.

>> That's the goal, if we can link a program or project to a positive outcome, that is the goal of this.

Hopefully, that will be a new program or project and not something we knew already worked.

>> This is intended to solve the problems in a way, but it is also intended to solve problems in other parts of town as well.

We can pick that up and use it elsewhere in the city, and presumably elsewhere in the country.

>> I can assume you forecast we find a successful strategy for the runberg area, we will use that program for the same challenges.

>> There is really is in spending some time, maybe not a year and \$75,000, but working through a neighborhood first and figuring out what it needs and deciding that up-front time is time well spent in determining what is the best set of social services, enforcement approaches and so on to be able to solve a problem in the neighborhood that technology actually works in runburg, it makes sense to use that technology, maybe watered down on sped up around town.

>> Absolutely.

>> Sounds like a really good idea.

I understand how \$300,000 may be a lot of money to swallow, but i think as a demonstration project, what we can set up for a lot less money downstream, particularly because the grant requires it, it seems like this is a good expenditure of our time and investment of our money.

>> Thank you.

>> We are going to just correct something.

Mayor pro tem, it does relate to midnight basketball so if you want to ask more specific questions, that would be the item to discuss it.

>> Thank you.

I'm done.

>> Before we go to the next item, which is 63, for discussion by council member morrison, just fyi, items 115 through 120 will be postponed by staff, I believe is until january 13.

Item 63, council member morrison.

>> Thank you, mayor.

This is the item on the potential for us to sign an interlocal agreement with the texas facilities commission.

We addressed it last on november 8, I believe, there was a vote

to approve staff negotiations of the ioa, and it is a continuing saga.

There have been plenty of discussions about it and including a lot of input from the public and we also have this on our agenda at the comprehensive plan and transportation committee yesterday.

Although that was a very quick discussion we had, I think it was helpful because it helped me to sort of crystallize the varying perspectives that we have at the table here.

On the one hand -- well, first let me say I think there is definitely common ground that everybody is interested in when the city is going -- when the state is going forward to plan the use of their lands in the area that we all want to have austin be sitting at table.

And, I think where we're -- the perspectives are differing, one perspective is we need go forward and sign up with the tfc and get our contract all delineated at this point.

Whereas the other perspective is that it is an evolving situation in terms of roles and responsibilities and it would be better to let that shake out before we solidify all of that.

And, so what I want to do today is propose an option that we

consider that hopefully could take into account the benefits and the concerns on both sides of the discussion.

On the one hand, as was mentioned yesterday, it was suggested that the Texas Facilities Commission already has been statutorily charged with planning these lands, and they already have the authority and the legislature already.

It was suggested at the meeting, already gave the TFC a go to plan these lands.

On the other hand, with the sunset report that came out, it is clear that there's still some open questions and may well be some changes in all of that this time around at the legislature.

One, explicitly, the report says even with the capital complex that the institute doesn't explicitly define the role, they do have a role of evaluating, they have the authority of evaluating the state land and there are conflicting goals between the GLO and TFC.

The other part of what I heard yesterday about them already having the go to plan these plans, mentioned in the report even were it to go forward, this needs to be a state discussion, a leadership discussion, and then just as a recap in terms of the evolution of this discussion, there was a -- you know, we heard it on the 8th

of november, and the council voted to move forward with negotiation.

On the 12th of november, the state released a request for proposal to hire a -- to find a consultant for the planning that was delineated with the rfp mirrored quite closely the draft ioa we had on the table, so it was clearly going out to hire a consultant.

Then, on the 16th of november, you would have the sunset release, it is my understanding on the 11th of december there is a committee on economic development on p-3, that is another issue.

Not just the tfc and glo sorting out roles, it is also a matter of evolving the p-3 at this point.

They're taking another look at that.

Let's see in mid december, there will be the house state affairs committee that gets charges, releasing a report on p-3.

There will be a hearing on the sunset report on december 18 and 19, and then on, I believe, the 9th of january, the sunset commission will be making its recommendations taken from the report.

And, the bottom line is that they may well -- in the recommendations, what's on the

table, is to, number one, to be looking at changing the statutory authority for how p-3 is implemented and lots of discussion about the process, who the stakeholder has to be.

And it's not just public we're talking about, it is defining the roles for agencies and glo and all of that, as well as public process.

So, what my proposal is, that the resolution that we have here in front of us has a be it resolved that, and this might be a mistake that we ask the staff to come back to us on december 6, which is thursday, so I think there must be a mistake there.

But, anyways, my proposal is that we ask the staff to go forward and negotiate an ioa and to bring it back to us the first meeting in august.

Because -- august.

Because that way -- I should say, the sunset report recommends no formal action on P-3s UNTIL DECEMBER 1 BECAUSE They're waiting -- they want the tfc to be able to move forward you believed the new guidelines.

That's my understanding.

So, if we were to put off signing the ila until the first meeting or finalizing an ila until the first meeting in august, I think that, number one it would allay the concerns that

we could make sure that whatever is going to shake out, whatever decisions are going to be made this year and this session, we can see how that all shakes out and make sure that our ila comports with that.

But, at the same time, it would be a strong statement that we definitely intend to do this, and that we intend that we're definitely interested in being at the table and part of this discussion.

However, it turns out a discussion is going to look.

And there is another issue that has come up in the discussions that I think this would help us deal with and there is a question about how much money are we going to be in for.

There is a previous discussion that the council said, yes, we want to invest 200,000 in the planning of the capital complex with the tfc, and at this point, we don't really know what the whole scope, the whole cost of all this planning for all five areas of the city are, of the state lands.

I believe that once this goes through and the consultant is hired to do this work, we will at least have an idea of the overall cost of it, and that way, we can go into this with at least some kind of concept of what our share is going to be, and not knowing exactly money

wise how much we're even thinking about jumping into, makes me very uncomfortable.

So, in summery, I think that if we were to, you know, strongly support this with the delayed signing and execution until august, we would be able to balance those concerns.

One that we want to indicate we're at the table.

We already have the resolution that says we want to work on the capital complex with them, we already have the money set aside to do that, and it would allow us to let the legislature do their work and be respectable of whatever comes out of that work and aour work with the way it is starting this session.

That's what I would love to have on the table for discussion today and probably what I will be proposing.

>> Mayor.

>> Mayor pro tem.

>> First of all, I'm glad you agree it is part of this process, --

>> I've always said that.

>> Yes, but that you agree that we need to authorize, execute, move forward.

And I think what you have clearly establishthat it is an

evolve process, and where we might be varying in opinions is simply that I believe that the sooner we become involved in this process, the better it will be and the better we will do with it.

Ila is different than what is being contemplated by the state agencies in the sunset commission, but I want to go ahead -- the ila is for us to participate with the tfc in a study, and that study involves property that is in addition to the capital complex.

It involves property at the austin state hospital, it involves property at the state parking garage.

And the only reason the dollar sum is not in the resolution at this time is we were really researching that, but the amount that is contemplated as being capped by us, although the property that is going to be studied that expand\$200,000.

And forecast that amount needs to increase for us to be part of the study, they would have to come back to council to receive that.

I will never suggest that we didn't take upon an endeavor like this without some idea to council what those costs would be.

But, I did want to address calm things you suggested about the

sunset report just out of a response but not because that is an agency we have any control over.

I fully understand people may have concerns about that but the people who are responsible for the sunset report and this agency are the members of the legislature, and the members of those particular departments.

That being said, I will point out that the sunset report says on page 5, issue 6, that the state has a continuing need for the texas facilities commission for the grounds and property.

That hasn't changed in the sunset report and they are actually repped that.

Also on page -- recommended that.

Also, on page 16, they require the texas facilities commission to formally adopt a master plan to guide decision about the capital complex future development.

They asked, or charged -- the sunset commission has not charged any other agency to do that.

They have also recognized the need for the glo in the sunset 6,
page 18, have actually required the general land off to conform to recommendations as property

within the capital complex to
the capital complex master plan.

So, I think the important part
to recognize is that this is a
significant amount of land that
is critical to our tax base.

And, as you know, we have
millions of dollars of unmet
needs, especially in
transportation and affordable
housing, and we need to be at
the table with the state as
early as possible in expanding
our potential tax base in
accordance with our imagine
austin plans and city plans so
we can ensure that we are able
to meet our citizen's needs into
the future.

So, that would be the reason why
I would not be supporting an
extension, and also to the point
you raise about the rfq actually
being issued based on previously
we have not been adopted.

It wasn't based on that I'm sure
it was in conformity with that
language and it is a sign they
will move forward without us and
they will move forward in a way
we may not be at the table to
have any influence over.

>> I would just say, mayor pro
tem, I agree with that last
statement that you made, and i
think we all have to realize at
the end of the day, the land
belongs to the state of texas
and in the end of the day,
they're going to do what they
want to with it.

But, this interlocal agreement, it seems to me, perhaps oversimplifying what it does is get us a seat at table and get an opportunity to have early input in the process and not wait until everything is already baked before we even begin to look at it.

Because, you know, essentially, even though we do have a process that would go through here at the city, it is not necessarily going to be a process that is mandatory in the state of texas.

We need to be at the table early.

>> Mayor, I will add to your comment and council member morrison's comment -- morrison's comment, we could compromise now where we go forward and get the staff an update and any amendments or recommendations.

We can give that direction and I'll take that amendment from you, we do not have to consider this a static document, it can be a breathing document as we go through this process.

>> If I may, the question about the --

>> council member morrison.

>> If we're going to sign the contract, it can only be breathing if --

>> I'm saying that would simply be direction from you or the

council might anticipate future agreements, it may anticipate amendments after this legislative session.

>> I think that goes without saying we can always amend any contract if the other party is willing to amend it.

I just want to respond to a couple of things, because i think it is -- well, this is the challenge from one perspective, you can read it that things are all clear and there's no question, but there are other statements in the sunset report that says specifically that the stat does not explicitly define the role in planning the capital complex, that the capital complex planning key partners are not only the tfc and glo but also the state preservation board and, quote, none is clearly charged with leading that effort.

And, I fully expect -- it is clear that the tfc is charged with managing our existing facilities.

In fact, they go quite a bit into that about improvements in need in managing the existing facilities, which is I think what you were quoting from, but that doesn't mean the clear role in the redevelopment of land has been established as such.

I guess I think the recommendations or to change the

stats to require p-3 process definition.

That is one of the things we heard most about, how there is no public process right now and the draft of the ila we had last time around didn't have any public process.

There are going to be changes about that so our ila really needs to be incorporating that as much as possible.

I think another thing that is important to note is that sunset report's concern about the tfc going forward prematurely looking at -- and considering redevelopment of state land.

Because, one of the big sections in there, they're recommending they step back and do some studies called "value for money"

to take a look a whether or not we even need to be redeveloping the state land, and then, you know, turn those discussions with information out of those evaluations over to the state's leadership, which is really where those decisions need to be.

They also are going to be -- they also have a recommendation there, they mentioned that not all the expertise for evaluating these kinds of proposals are available to the tfc and they recommend that they be required to use specific types of expertise in p-3 project

evaluations and things like that.

One last comment on here.

Your comments, that is we do have the 200,000 that has already been laid out there, and we don't have an order of magnitude estimate yet what have this is going to be, and I feel like it is important that we get -- I don't think that probably anybody has that estimate at this point and i think that is the responsibility thing to do, know what we're jumping into before we specify exactly what our part in it is going to be, otherwise we're sort of on the hook for who knows how much.

Anyways, I fully agree and have always agrees that we should be at the table.

It is a matter, at this point, of do we let the legislature do their work and then work within the construct and framework they define or do we jump prematurely into that.

>> So I have one question for you, mayor pro tem, on that list of prospective redeveloped properties.

Camp mabry, can you give me a little more information about that?

>> It is a 2-b designated portion.

>> A portion?

>> Not the entire camp.

>> That's not the totally per view of state.

Camp mabry has a large federal presence.

>> Mayor, I do have one more.

>> Commissioner morrison.

>> When I looked on sunday there was no back up for what the ila was, and also the date was in the resolution to bring it back by december 6 soy wonder what the intention is.

>> The process that we have followed since the last council meeting we discussed this, and under council member martinez 'direction and what has to happen.

To discuss any concerns, changes, whatever they want to make regarding the ila, and then we had notified neighbors within a 200-foot radius of any of the properties on the list and held a -- the staff conducted a meeting with them.

So, what we're doing is we're taking comments and we're submitting those to our attorneys, and then we're submitting those to their attorneys and we will post the document, hopefully tomorrow, that will be a final proposed document for execution that will

simply have those changes in there.

And that will also include the \$200,000 I talked .

So it was getting input to the community, we don't have the final document posted and we're based on execution from the last council meeting.

>> Are there indications or drafts out to the public to know what is going to be considered on thursday, or just considered tomorrow.

>> The planning department.

Excuse me.

We are, as mayor pro tem mentioned, we held a public meeting on november 29 to gather input.

We've been working on compiling that.

We met with tfc staff yesterday to start working on revised language.

Since that time, we've been bouncing back and forth on language on various sections.

We have not released a draft to the public because we don't feel like we have a draft that is ready for that, at this point.

We hope to do that.

We're focusing a lot of resources on trying to get that out.

Mayor pro tem, you mentioned meeting with the offices.

Do any of them have any discussions or comments?

I know yesterday you said none of them had said not to do this.

None of our delegation.

I haven't heard any of them say to do this and I have heard concern privately.

>> The concerns that I have heard is with respect to what you have brought up the sunset commission.

All of them want us to move forward in being part of the process because they believe we will make it better and it is good for us to be at the table.

>> So move forward now?

All of them say move forward now?

Is that what you're saying.

>> Yes.

>> They have no concerns with us moving forward now, but they have concerned with the sunset commission, but that is their duty to deal with the agency and all of that.

>> Right, right.

>> I've not heard that.

>> I did hear concerns about it from our legislators, from some, about moving forward now so that's something we can follow-up on.

>> I heard concerns about that before we met with them, but not after meeting with them.

>> Council member martinez.

>> I have a question for the city attorney.

Simply because we have posting language in the resolution can we take action, did anyone draft it?

>> As long as you get the item before you consider it, you are allowed to take action on it.

It just says that items have to be before the council before they vote on it, so to get it tomorrow, sometimes we will get back up on the day of, but i believe you can do that.

>> I appreciate that.

While it may be legal, I'm going to express some concerns.

We don't even have a draft, and it is a contractual obligation with a financial commitment, we have all these rules about posting and transparency, we try to comply with them as best we

can and it gives the public more than the legally amount of time and here we are 48 hours from a council member and we don't even -- a council meeting and we don't even have a draft from the state of texas from that perspective, I have a great deal of concern no one is going to have time to review it and ask follow-up questions, if necessary, and get those answers back.

So, I would hope we take that into consideration.

>> I think that would be a big change in a normal operating procedures, because we routinely make revisions on the last day, and I think to single out one item would be, perhaps, inappropriate.

If we want to adopt that standard for everything on the agenda it has to be finalized x days before this and that and the other thing.

>> Mayor, I think that is a revision.

We don't even have a draft in front of us that we know is being revised.

That's a big difference, between changing a few sentences and words opposed to actually having the document being contemplated right now.

George just said we were multiple versions going back and

forth that we've been waiting on.

>> There has been one posted and this would be revisions to that document, which is what we're working from, and this would be consistent with the policies that we have had in place thus far, and we received huge documents, comprehensive plan, east corridor plan, on the dais, on the day that we're actually to vote on them.

So, if we're going to make a revision to that policy, this would be a revision to that policy because we do have a draft.

>> Okay.

Council member tovo.

>> Yeah, I just want to echo some concerns I've seen.

Heard, rather.

I read the draft at our last -- before our last council meeting and heard the community's concern about it.

My understanding there was a revised draft on the diane.

But I don't know how many revisions have happened since then, not only is it important for the public to review this but I feel I need to review it carefully.

We had the public meetings last week but neither I nor my staff could attend pause of the posting requirements, so we weren't able to be there to hear the community concerns, I have no idea what kind of revisions are being made.

This is a complicated issue, it involves a contractual obligation with the state.

We've hear very valid concerns with the community and I want to be sure if this council moves forward with an interlocal agreement, then we've all had a chance to review it.

I really appreciate the effort.

I absolutely agree we should be part of the process.

I'm not on board at this point with what I know of the interlocal agreement.

I think stating our intend to be involved and the plan to do so is one thing, but I think it raises concerns we've heard from both of community and my colleagues about the sunset advisory and they've been tasked now with needing to come up with a more explicit, careful public process and allowing them to put that in place first, it seems to me, would make good sense before we enter into a contract with them.

I'm willing to continue the discussion but I think it would

be inappropriate for us to act on an interlocal agreement.

>> George, a couple of questions.

One, with respect to the original \$200,000 alluded to, I'm trying to recollect when those dollars were allocated by council.

Was that allocated with the understanding we would negotiate and execution and there are would not have ban draft or local agreement.

That is one question.

That recollection is correct.

And number two, that draft that was being worked on per that \$200,000, it has served as the basis for the work that you're doing currently.

>> That's correct, on both of those.

We anticipate that the revised draft will use much of the draft format and language that was part of the council back up on november 8.

Obviously, there will be changes to that and wear trying to speak as much as we can to the comments we heard both at the public hearing and the public meeting on november 29, but the, you know, the basis for those revisions will be the document we were working off of.

>> So, mayor, I have a couple of things to say.

I wanted to outline what I'm anticipating will be the major issues that will be changed in the interlocal agreement.

First and foremost, point out that we have item number 64, which outlines the public process with the p-3 legislation we did not have that the he is able to participate in.

There is a 60-day comment period and they will have a public hearing where the commission is able to participate in that.

I've received nothing but positive feedback and glad we greased that.

That is part of our process that we do have control over.

The comments regarding what the sunset commission says and what tfc has to do.

We have no ability to control that.

But we have implemented a public process that is a resolution number 64, and I expect, as stated before for the new ila to have the \$200,000 cap, I peck the resolution to make clear which was the concern of the public that we are not actually engaging in a plan, but simply a study, much like our imagine austin study, is very early in the process.

And, we are not addressing any site-specific review or any details that we go through in our land development process.

And I would just simply ask george and lila if that was a fair assessment and if there is anything major that has come up that my colleagues need to know that would impact this agreement.

>> Mayor pro tem, the only thing I had add to that is we're working very diligently to add a public input process to the major milestones of the study, and that would be something that city staff would take on, we would organize, we would conduct and we would take that input back to the process and the tfc staff and consultant team.

>> Okay.

Mayor.

>> Council member morrison.

>> I will look forward to seeing that because changing it from participating to a study, you know that sounds like a significant change.

As I recall, the draft of the ila talked about coming up with preferred scenarios for development of the land.

>> The study, yes --

>> not a plan.

>> That was simply a recommendation that the neighborhood wanted.

They wanted to call it a study and not call it a plan because they wanted to be clear that it wasn't a final process and that it was evolving.

They stopped that particular wording.

>> With all do respect, a study is a study, a plan is a plan.

A plan is a plan, whether you call it a study or a plan, so i think that we need to be careful and clear about that.

I also heard you say, it is a study like imagine austin is a study, imagine austin is a plan, not a study, so I think that it would be helpful over the next few days, especially as staff is working on this forecast there can be some clarification about the difference between it being a study or a plan.

I'll look forward to seeing it.

>> As long as we have a plan for the study.

>> It's a deal.

Study the plan.

>> Anything else on this topic?

Okay.

We will go to 66 for discussion by council member spelman and i think we have staff here available to questions.

This relates to the overall process that we're beginning to engage in, revision of the land development code, particularly the cwo is what this relates to.

And this resolution does nothing more than direct the city manager to bring forward for our considering some proposed changes that were adopted by this council sail few years ago, and has as its purpose to improve water quality in the barton springs zone.

For a number of reasons, the redevelopment ordinance, let's just say, has not been overutilized at this point there have been a few intanses where properties were redeveloped under this ordinance, but not many, and we want to take a look at ways perhaps, we don't know what the suggestions are, but staff has actually suggested we go through this process of seeing if there are ways that we can perhaps expand the scope to deal with the redeveloped areas that, frankly, comprise the majority of the barton springs zone in the city's jurisdiction, well over half, and these properties have little or no water quality protection now on them.

This ordinance gives the city the opportunity to change that,

to both have on site water quality treatment and to acquire open space within the barton springs zone.

So, this, again, does nothing more than start the process.

What are the suggestions, what could we do, to address this, frankly mark jorrity of the barton springs zone.

I remember a lot of the numbers very well.

I don't think they've changed very much, but we spent so much time focusing on the sos ordinance, when in fact, only 16% of the land in the city's jurisdiction in barton springs zone is actually subject to the sos ordinance because the other properties are either have already been done or approximately 31% is already permanently dedicated open space.

If you add all those up, i believe that number is still about the same about 16%.

The big 50-odd percent is what this particular ordinance addresses.

And, I do want to point out that several people remember that back when the sos ordinance was adopted, back in the early 1990s, PEOPLE KNEW THAT WE Were leaving a lot on the table that we were not addressing what was the biggest problem with the

water quality in the barton springs zone and that was this property that had already been developed but it was chosen, the decision was made not to include retro, required retrofitted in the sos ordinance because of the enormous cost.

At that time, estimates ranged above \$500 follow actually do those retrofits, so that was kind of left out to be addressed at a different date so redevelopment ordinance made one step in the direction of doing retrofits at private expense, not public expense.

This is entirely done by the private sector, so with that, I'll turn it over to you, council member spelman, if you've got specific questions.

We have people here to answer.

>> In fact, you've done a very good job of answering my first set of questions, which is what are you trying to accomplish here.

Let me summarize it forecast i could you're talking about extending the redevelopment ordinance to the north edwards aquifer, at least discussing that.

>> Potentially.

>> And also discussing the potential, including residential properties, which were not included in the redevelopment

ordinance, and basically anything else that looks like what may be coming up.

>> Originally, the restricted area, as you pointed out, applied to commercial properties.

Basically.

>> Thank you, may why you guys have been working with potential applicants for use of that ordinance.

Can you describe why is in your opinion, so far, at least, we haven't had very many takers.

Watershed protection.

We did an evaluation a couple years after the ordinance was passed to look at the status, and we did, it was off course right when the economy started sort of flattening and there was also a lot of uncertainty in the oak hill area, we identified as one of the ideas.

We were obviously speculate on what was going on.

As the mayor mentioned, this was limited to a small number of properties, we kept mentioning 199 or 200 properties at the time and that was the scope of this ordinance, so it is a very limited set.

The planning commission and council at the time were very clear that they, as this went

forward and they got stakeholder input and you wanted to limit it.

That's what it is.

At this point, my sense is because we're looking at -- since we haven't had this there were some concerns there would be land rush or a great number of these things coming through, we've had two of these.

I don't think the -- I don't think there is that issue.

So the idea would be -- and as the mayor said, the original ordinance, try to address some of these things it had sort of a mandate in there, what did we do to retrofit but it didn't pay for it and so forth, so this was the tool we thought was -- that was -- could be used for that.

>> Our usual justification for a pilot project is we will learn something from the pilot that is used to extend the program more generally, in a wider case of properties.

What have we learned over the last few years?

>> It keeps pointing to you.

>> Sure.

>> Environmental officer.

I think there is a couple things.

The one sort of part of your first question is why haven't we gotten more participation.

What I've heard from several developers is cost, mitigation land and that -- and I think I've already heard from other folks that, as you know, as matt mentioned, we implemented this simultaneously with the economy going downhill somewhat, and so, then, when you tie that with the mitigation land requirement, while the economy did flatten out significantly, land cost did not drop their rate of increase slowed but land out in that area is really expensive, the land we've been trying to purchase over the years, the water quality protection lands.

I've also heard from the community, as the plan picks up and it becomes economically advisable to invest there may be more takers.

The timing on this was, maybe not the best, but we also think this is something we anticipated.

I don't think we anticipated that there were going to be lots of properties do this, and i think based on our staff analysis that the time is really ripe as the economy is starting to pick up to take a look at this, have some discussions with the development community with the property owner community,

environmental community and see if, should we let it ride?

What we've got sitting on the table right now and see what happens over the next few years.

But based on the limited involvement, we look at making some changes to get people to take us up on this offer because we would like to see these properties get improved from an environmental standpoint and get some economic development stimulated in that area, too.

>> Let me try and summarize that, then.

We passed the ordinance, I was a little bit concerned there would be a chaos, a land rush of people trying to take advantage it turns out two takers out of the prompt.

We didn't get a land rush and could be because it is just plain inexpensive to do we need to look at the requirement of the ordinances, alternatively, could be the timing is really bad.

Prices didn't go down, timing became unavailable.

It sounds to me like it is going to be impossible for us to decide whether it is a or b is the primary cause of what happened here.

Is that material here?

>> Yes, that is accurate where you just said.

I think one of the -- in the weeds a little bit, but one of the original ordinance, it is structured so that a property, we basically need to take advantage of this opportunities for the whole property.

And we could structure it so you can have a subset of a larger property do this and, therefore, it would be much more flexible and much more feasible, we think.

So that would be one of the things we would look at.

I think we would continue to be cognizant of the concerns that we don't want to create, basically, a land rush.

We always want to balance the environmental benefit we're looking for the economic benefit we're looking for and get some of these older prompts that have little or no quality control, and to be honest, under developed and under used in an economic standpoint to meet some of those goals but not in a way we sacrifice environmental protection.

>> And you're not generally -- although you're invited to, on this resolution, it is your understanding you're not talking about generally opening up the requirements, the redevelopment ordinance and remaking them but

you are talk about extensions to other parts of town, perhaps allowing land owners to use a parcel, a piece of their property, rather than having to redevelop the whole sneak we think there is value in looking at other parts of the city, particularly the area north, similar situations, similarly sensitive environment.

And, we do have a redevelopment exception that applies to the entire city that very few people are taking advantage of, and so, we haven't done the analysis yet for that area of the city, so we really don't know whether or not we ought to extend it there, but do we need to do the analysis.

It is a fairly significant staff commitment to do that work and we wanted to get some guidance from council and see if there was interest in going that direction before we devoted any significant staff time to that.

>> Okay.

At this point, there is really no way to tell whether or not the extend to which the land rush was due to the lack of a land rush -- was due to the lack of credit and the stable high prices, or whether it was because the ordinance is extremely restrictive.

We really couldn't tell at this point.

>> We need to do some analysis, have some discussions with more people in the development community and be frank with them and say, why haven't you taken advantage of this.

Now, we have heard from property owners, people that own residential developments and people have expressed interest in this so we will look at that and make we can get some older residential developments restrofitted, as well.

>> -- Retrofitted, as well.

>> We will look forward to hearing what people have to say.

>> I looked at this process a year and a half or so, and we did have all sides at the table.

>> The return on investment was just barely what would be needed.

And, as long as there are other opportunities, people have a better opportunity for an improved roi, they're going to take it, so this is kind of something that has to be, it is very specifically directed.

One of the big targets, we talked about constantly that is still out there, is the wide oak hill, a large piece of property that is well over 80% impervious cover and one of the requirements is you can't increase the impervious cover.

You can redevelop and keep the existing impervious cover.

If that could be subdivided, it could be feasible.

Another requirement, you have to mitigate down to sos levels but purchasing open space or contributing to a fund to purchase open space to make up for that deficit.

[One moment please for change in captioners]

>> but we are not seeing people try to take advantage of the redevelopment ordinance.

They are going and developing green fields in that same ring, in that same area, so that tells me that this redevelopment ordinance is not as economically out of balance and we need to take a look at that.

>> Riley: Mayor.

>> Mayor leffingwell:
Council member riley.

>> Riley: Just a housekeeping item.

This have been some questions about the language of this resolution.

In fact, I thought we agreed to a new draft.

there
is a new draft out.

>> Riley: But the version
that is online is still the
original version, which is
not what I agreed to
cosponsor, so could we get
an updated version online.

>> I think it's being posted
today.

>> Riley: It should be
posted today.

>> It should be.

>> We will work on that.

any
more questions?

All right.

Thanks.

Seventy-three, marked for
discussion from council
member morrison.

>> Morrison: Thank you,
mayor this is an item from
council member riley and
spelman.

I have a couple of questions
about it.

The idea, I gather, is to
develop a pilot program to
allowed for reduced parking
requirements in the case
there are trip reduction
strategies adopted by a
business, which sounds like

it -- it sounds like a great idea and it makes a lot of sense.

Two questions about it.

One, in part 2 of the ordinance, it talks about this to authorize reductions in the minimum number of parking spaces required for commercial businesses so the implementation of parking reduction strategies and one thing I am not here on, is this something that would come into play at site plan approval, so it's actually going to be a built environment that has less parking, or is it -- or you contemplating that it comes into play when maybe there is a change of use and there is a reference going in and need going to be needing more parking spaces based on the number of seats?

So it is more of a shift in use, or both?

>> Riley: I would say it could be both.

As you know, there are instances when a new business -- when a new business comes into an existing building but it has a different use with different parking requirements and there is some review of that.

And in some cases businesses are required to secure off site parking and this would be -- would allow discussion of that, just similar to how it works now.

This would -- we would have discussion of how business could -- what the applicable one would be for each business depending on the same building, depending on the use that occupies that billg.

>> So let's say I come in with a site plan and I am going to put a restaurant in -- walk me through it because I didn't quite understand what you just said.

>> I guess what I am saying.

It could be either situation.

It could be new development.

It could be existing development.

>> Morrison: All right.

>> Riley: So if you come in with a site plan for -- you want the put up a new restaurant.

Then right now the code says your parking requirements are x, and what this would allow is that if -- if a -- the restaurant operator

says, well, wait a minute,
we are right on a transit
line.

We are going to orient our
business especially toward
people who use alternative
forms of transit and we are
going to put all of these
measures in place in order
to encourage those sorts of
travel, then in that case,
the staff would have
discretion to work out an
agreement with that
restaurant operator that
would effectively reduce the
requirements for that site,
and that agreement, once in
place, would be reviewed in
much the same way as an off
oocyte parking
requirement -- off site
parking agreement as
currently reviewed.

>> Morrison: Let me stop you
there, because that's where
the question is.

You said the agreement --
let's say they are building
a restaurant -- and this is
just a mechanical thing.

I don't have a problem with
it.

I just want to make sure we
pull this out.

You are building a
restaurant and you, then,
enter into an agreement with
the restaurant operator, but
isn't there something that

needs to be tied to the land
if the actual built -- what
actually got built is going
to be allowing -- well, i
guess for restaurants, it is
a matter of seats, right,
and so let's say one
restaurant owner comes in
and says, yes, I am going to
do these strategies.

They build the restaurant
and then that restaurant
operator leaves.

The next restaurant operator
is not going to be
encouraging that, so that
operator will just be
allowed fewer seats, because
they would -- is that how it
would work?

I see -- I just want to make
sure that we -- I delineate
between what is tied to the
land and what is tied to an
actual business.

>> Riley: Sure.

>> Morrison: And that we
don't go down a path without
knowing where we are going.

>> Riley: Sure and maybe
brent can help us with that.

>> Brent, assistant city
attorney.

Brent lloyd assistant city
attorney and briefly by way
of clarification, the
ordinance that is before you
would initiate the pilot

program which would then come back to you in march with a full ordinance establishing the requirements, and a lot of the details that are being that are being discussed here now are ones to have to be discussed with the staff ordinance and this one initiating that does not provide guidance regarding the issues you are addressing.

However, there are obviously issues that would have to be addressed in the staff recommendation -- and the staff recommendation would include provisions addressing everything that you all have touched on.

>> Morrison: Okay.

Great.

And then the second question I have is down in part 5, i am a little confused because it says that the city manager should come back to the council with a proposal, no later than march 1, 2013.

After providing a staff briefing to the planning commission, but then it goes and waives the requirement for review and recommendations by the planning.

So it looks like we are lining it up to brief them

and not get a recommendation from them.

I am curious to why that delineation -- I would be very interested, frankly, in a recommendation and thoughts from the planning commission.

I think they have a lot to add, and so if the staff is already there briefing them.

I am just wondering if there is -- what the concern was to not take -- not get a recommendation from them while you were at it.

>> Riley: I think the idea is simply that we are going to ahead and put the pilot program in place and then as the ordinance is crafted, as brent described, then those recommendations would be subject to review by the planning commission.

That would come back.

If you look at the wording.

It says that the -- we waive the requirement of pc review prior to consideration adoption of the proposed pilot.

But certainly any permanent measures would be subject to review by planning commission.

>> Morrison: But I think as we just sort of demonstrated there is a lot of open questions here and I -- and it looks like we are already going to -- the staff is already going to be at the planning commission and so personally I would love to hear their recommendation.

If they are already going to be there, why not get their recommendation to bring to the council?

Is there some concern that that's going to somehow delay it?

I think that's an important piece of being able to consider what are somewhat complicated issues.

>> Riley: Right.

I think it was just a matter of getting a pilot in place quickly, knowing that we will need to have a lot of discussion or review before anything permanent is put in place.

>> Morrison: Well, I think sometimes we discuss pilots.

I wouldn't want this to take a year and a half like the pilot of the redevelopment but I would like us to consider for us to consider removing that one waiver.

It seems like, you know, we could certainly put direction in that it's somehow be expedited, that the planning commission doesn't get stuck there, but we are already there.

I guess I would say why even brief them on it if you are not going to ask for their opinion.

I would like to suggest that we go ahead and get the recommendation while they are there.

>> Riley: I would be happy to get some further indication from staff as to how much time would require to be to go through a whole planning commission process just to get a pilot in place, but in general, it seems to me if there is a policy decision at issue here, if the council believes, that we ought not to have a pilot in place, then that's -- that's up to the council to decide and then when it actually comes to crafting the terms of -- of the program for inclusion of the land development code, then that will go through the whole planning commission process but the planning commission has a lot on their plate.

We are continually adding to that plate and so it's just a matter of not getting too

bogged down before we even get a pilot up and running.

>> Mayor.

>> Mayor leffingwell:
Council member spelman.

>> Spelman: The there some middle view of blowing off the planning commission and going through the whole nine yards, which might go on for a couple of months, is there something involving, for example, a briefing and then, I don't know what you call it, a straw poll or assembling comments from the planning commission or something like that.

The basic idea to get whatever wisdom we can goat from a bunch of people like you guys have spent a lot of time looking at this stuff, before we start the pilot program, without having to delay the program for a couple of months to go through something which is really not a -- we don't need to go through the whole formal exercise.

>> Morrison: I would certainly be open to that and I guess I would ask legal.

I think what we are waiving hear.

>> Mayor leffingwell:
Council member morrison.

>> Morrison: Might waive the requirement that it actually go to codes and ordinances and so if we could somehow recraft this so that we is that staff do the briefing and collect comments or something from planning commission, I certainly would be comfortable about that.

>> Spelman: That seems like a reasonable thing to do.

>> Riley: Could I is if law has any recommendations along those lines?

>> We will take into account the comments and try to determine what we think would be workable in advance of thursday's meeting.

Definitely it's -- it's very clear-cut to either waiver the planning commission requirement and allow a staff briefing, require a staff briefing, but getting into actually directing the planning commission how to go about its business, the codes and ordinances process and all of that, raises some concerns but I think potentially there is a way to require that there be comments collected or something like that while maintaining the waiver of the full-on process.

So we will look at that and be prepared to advise you on thursday.

>> Morrison: Thank you.

>> Spelman: Mayor.

>> Mayor leffingwell:
Council member spelman.

>> Spelman: It might be as simple as not asking for a vote from the planning commission but asking for comments from a planning commission, but making sure that somebody writes them all down.

Thanks.

i
agree.

I would support that approach.

I don't think it -- I think the process begins after the pilot.

The pilot information we gain from doing the pilot program will be useful in constructing the final ordinance, and that's, i think, the way we usually do pilots but I do have -- i intend to support this but i just have a couple of questions.

Trip reduction strategies.

Are they defined in the ordinance?

Or are there specific ones?

>> Riley: Yes, mayor, the ordinance lists 6 examples of trip reduction strategies.

is valley parking one of them?

>> Riley: It is.

it is?

>> Riley: Yes.

And valley -- it says provision of valley or delivery service.

If the business operates primarily on delivery basis, that could reduce their parking requirements.

>> Mayor leffingwell: okay.

I think it's good to be as comprehensive as you can about that and obviously the elephant in the room is what is this going to do with overflow parking off site, on-street parking which is a problem we have to address on a somewhat regular basis around here and I hope that's fully studied.

>> Riley: Yes.

>> Mayor leffingwell: okay.

Item 74, marked for discussion by council member morrison.

Morrison, which is comprehensive plan.

We have some staff here to address that.

>> Morrison: I didn't really have questions for staff, mayor.

I have a comment -- we are supposed to have them here in case anybody does.

>> Morrison: Okay.

Great.

that is the reason we mark it for discussion, is so that we can have staff here, so we can at least let them set up at the table.

Come on.

[Laughter]

>> Morrison: I am sorry, george, I didn't mean to make you go back.

you don't have to say a word, george.

>> Morrison: Always good to have you here.

So this is the item that we've heard from staff on their proposal for the process for developing the new land development code, and one of the elements of that was to create a steering committee of, i think 11 people, and so this creates -- this is the process for creating that and I appreciate the mayor pro tem and council member riley for bringing this forward.

They invited me to be on it but the reason I have concerns about the way it was crafted -- I don't have an issue -- we have had a lot of good discussion about what the process is going to be.

Staff has taken some input on that and made some adjustments to that.

One of the most important things for me in terms of what we are looking at now is that, you know, we want to have a core team of -- of the steering committee.

There will be lots of working groups and lots of opportunity for participation, but one of the things that did change in the process is once the consultant and the community works together to identify the problems we need to solve, what's working and

what's not working, we were -- originally the process then asked the consultant to go off and come up with a new draft code for us.

Now what we've got is the consultant is going to come back to the steering committee and lay out the different alternatives for addressing the issues that were raised and get input from the steering committee on which of those, I think, would be most useful in the city.

So the concern -- so the steering committee is going to play a very key role in terms of helping us move forward this process.

The concern that I have is that under the be it resolved, the first be it resolved, number 4 says, the advisory group, the steering committee is not subject to the requirements of city code chapter 21 city boards and it's my understanding that under that section that the -- that requires open meetings, that the boards comply with open meetings, so the way I read -- our steering committee would not be subject to the open meetings act, which means they could be meeting with no notice to the public.

They can be meeting in a quorum, you know, outside of public view, and all of that, and so this is my concern and the effort to undertake.

There is intense concern from all community of where we are going with the new land development code and so I think that's it's imperative this committee meet in public, the public be able to follow the discussions and know what are the alternatives we are looking for and know what is the direction and recommendation that's going and have an opportunity to weigh in on all of that, to cut the public out.

It's just a recipe for disaster.

So it would be my suggestion that we remove that -- that we change that to say that the advisory group would be subject to -- to that section and I guess I want to ask staff just to confirm that I am correct in that assumption, that if we waive 2-1, it means are not subject to open meetings?

>> I just want to clarify -- you are correct our board of commissions codes make open meetings requirements applicable to advisory bodies that under state law

would not be required to comply.

However, this advisory group, even without the statement in number 4, would not under our code be subject to open meetings.

The provisions in chapter 2-1 define basically state that if a group -- if a city creates advisory body that is temporary and uncodified, it would not be subject to those requirements.

So this is not a waiver.

If it were, it would have to be done by ordinance.

It is just a statement of clarification because, I think, these issues do have the potential to create confusion and people want to know kind of what the rules are going to be, so --

>> Morrison: So if we want to make them subject to the open meetings act, we would have to say that explicitly in here?

>> Exactly.

Simply removing this sentence would not have the effect of making them subject to the open meetings requirement.

>> Morrison: All right.

>> Council member, if i might add, it was never the goal or the intent to -- to not comply with the-meetings act.

We have -- with the open meetings act.

We are always intended to post meetings agendas and hold meetings that are open to the public.

Really the goal was to make it clear that we weren't subject to the same -- the same types of attendance requirements because that has been problematic with similar advisory groups.

It's my understanding with the comprehensive plan advisory group, that was a challenge.

Of course it was a much larger number of participants and so it -- there were a lot more moving parts.

>> Morrison: Right.

>> I just wanted to --

>> Morrison: So it is your intent as staff -- would you have any problem if we have a line in here that the advisory board will be subject to open meetings act?

>> Not at all.

>> Morrison: Then I guess that I would hope that this sponsors might be all right with that, also.

>> Mayor leffingwell: yes.

>> I am curious, george, but if I heard you correctly, the concern, though, was the attendance requirements that's associated with how the committee worked with the -- on the austin plan and so being subject to open meetings, I don't think you mean when you say, yes, you are open with that.

You still want to avoid the attendance issue.

Correct?

>> That's correct, yes.

>> Morrison: Well, and i guess I wonder if there is some clarification needed, because one of the things it says is remaining numbers -- if there is -- if someone resigns or fails to serve then the remaining members will fill the vacancy subject to approval by the council.

What does that mean, fails to serve, if we don't have a well-defined attendance requirement?

>> It is my understanding that with the airport advisory group, which is

kind of the model for this,
that they have kind of
self-enforced that.

If there has been a pattern
of nonattendance, or if --
obviously if someone
resigns, that's clearly.

>> Morrison: Okay.

I guess there might be --
I -- my thought is it might
be helpful if we actually
got some definition of fails
to serve, because I would
hate for there to be -- it
doesn't necessarily have to
be what is in boards and
commissions, but I would
hate for there to be
controversy over this, where
the rest of the committee
says, hey, you failed to
serve and the person might
have felt like they had been
reasonable and all of that.

I wonder if there would be a
way to define that?

>> We will work with staff
and have language to address
that issue on thursday.

Additionally, just so that
we are clear, so that we can
prepare for thursday, what i
am hearing is that there
is -- there is a shared
desire to require the
posting requirements of the
open meetings act but not
require compliance with the
provisions of our own code
that require regular

scheduled meetings and other things along those lines to allow more flexibility for meeting at different times.

Is that correct?

>> Cole: I want to interject here a second, if I may.

It was my understanding, based on many of the comprehensive task force members and also based on comments from the airport advisory group, that the problem, as you said, was with the attendance and actually having a quorum.

Of course we have drafted this largely based on what the stakeholders wanted and your recommendations, and that was done with trying to solve that difficulty, but of course we want it to be transparent and we want to comply with open meetings but we have two different things we are trying to balance in terms of the citizens commitment.

So we have terms in which the advisory group is not automatically subject to open meetings and we were clarifying more to make it easiest for people to serve, so I would like us to have a discussion with that in mind, that we are going to have difficulty actually obtaining a quorum and we have actually been told that

by citizens that have been involved with the process and we have started to add this language in some of our advisory groups.

This is not the first time it has been done.

>> Morrison: I guess my thought on that is that the task force did -- the task force was huge compared to -- compared to this.

This is going to be 11 people.

Is that correct?

So I would -- I think that if we can't find six people that can come to a meeting to make recommendations and take formal action on our land development code, we have got a bigger problem than just trying to fill seats.

I think that it would be imperative that we have them -- I would just be surprised if that really got to be an issue.

If we can't get six people to come, we need to be looking at reassigning those positions.

>> Cole: And so I agree that we should try to get all 11 to come and this was simply a balancing of interests.

Do you think that you can draft some language and get that to us?

>> Yes.

Mayor pro tem, we will be ready for thursday.

>> Cole: Okay.

>> Tovo: Mayor pro tem.

>> Cole: Yes.

>> Tovo: I want to jump in here, as somebody who has served on task forces where we've lost half of our members, it places undue burden on the people who are I agree if we have people who can't make a commitment to come, they ought to be replaced and we have plenty of people in this city willing to serve on committees of this sort and I think we need to be willing to do that and it is really the only fair thing for people who are committing their time to serve on a board.

>> Cole: I understand.

I completely understand.

Again, a balancing of two legitimate interests.

>> Morrison: And I think definition, if we can get a definition of failing to

serve and make it fairly stringent.

>> We will be able to fill positions.

>> Cole: I agree, we need a definition of that, to be clearly defined.

Is there any other items that -- council member tovo, did you have another item?

>> Tovo: I did.

I wanted to talk for a minute about 87.

This is the rezoning of forest and san jacinto and we talked about it at a recent meeting -- did I say 87 -- fifth and san jacinto.

We talked about it at a recent feet meeting and as i mentioned -- at a recent meeting and as I mentioned then, we intent a lot of time about a year ago -- we spent a lot of time about a year ago talking about downtown plan and what is the vision for properties that are seeking increased density and prior to the adoption of the downtown plan, we had many discussions about cure zoning and the fact that we had a lot of development projects coming to council seeking cure zoning and in doing so getting increased in entitlements and in doing

so not participating in our
downtown density program.

When I mentioned to
community members recently
that we had a cure case
before us that was not --
that was seeking increased
entitlements and we still
don't have a downtown
plan, -- we have a downtown
plan that was not
participating in community
benefits.

It was their surprise
because they thought the
adoption of the downtown
plan, we had, closed the
cure loophole.

I thought that, too.

We haven't codified the
downtown plan but we have as
a council adopted the vision
of a downtown plan saying
projects that are eligible
that are seeking increased
densities will participate
in our community benefit --
will meet the gatekeeper
requirements and participate
in community benefits and so
I would just like to
mention -- you know, have a
discussion, if we've got
time and the will to do so
here today what the options
are for the applicants of
fifth and san jacinto.

One option, would be for
them to wait until we've
codified the downtown plan.

An option before this council would be to ask them to come back, to postpone and to come back when we've got it codified.

We have the discretion, of course, to turn down the zoning request.

And they have the option of participating in the interim downtown density bonus program.

You know, in going back, I think we had a discussion rustoven or the -- rusthoven, or the appropriate staff members to answer this and we had a discussion at the meeting and I think the content was the interim density downtown program wasn't open to commercial properties but in looking at 22586, affordable housing incentives in a central business district or downtown mixed use district, section 8 says it applies to commercial or mixed use development.

rusthoven, could you clarify, would this applicant be eligible for density bonuses under the downtown density bonus program.

>> Yes, jerry rusthoven of the planning and development review.

Today they have two options with the additional far in the cbd, would be would be to participate in the interim density bonus program or the alternative which something to show which is to seek a cure of zoning case.

>> Tovo: So those are the options that have been to the developer.

They can participate if they want increased entitlements, which they can apply to and they can participate in the downtown density bonus program.

That would yield a community benefit, by my calculations and I will submit a formal question and ask staff to verify this, actually, Joe Hardin calculations but I think -- I think they are right on -- of \$896,900, at least half of way 50% of which will go to affordable housing, another 50% would be community benefit.

So that's under the interim density bonus program with no gatekeeper requirements.

Under the density bonus program downtown we proposed last fall, council member Spelman had provisions -- we had a consultant who made very strong recommendations, many community members made very strong recommendations

about the need to, again,
close the cure loophole.

We came to a compromise with
the help of council member
spelman's proposal as far as
this council, that,
according to these
calculations would yield, if
the -- would -- with grate
keeper requirements and an
estimated \$179,380 in
affordable housing -- and
that could be a combination
of 50% of affordable housing
and some other community
benefit, so, yeah, I want to
be sure that we all
understand the options.

We spend a lot of time
talking about the critical
need for affordable housing
in this community.

We have all expressed
disappointment about the
failure of the affordable
housing bonds and so I guess
I would just ask you to
think about what we are
doing when we are not
requiring developers to
participate in the goals and
the plans that we have on
the books.

And again, we have got to.

We have got the downtown
plan as adopted by this
council last fall, which
gives some very clear
guidance as to what the
community benefit would look

like if they participated in that.

If they choose not to participate, to voluntarily participate in that, as envisioned in the downtown plan, they can participate in the interim density bonus program.

>> Morrison: Mayor.

>> Mayor leffingwell:
Council member morrison.

>> Morrison: I would like to say I agree completely and i think that it's my understanding, my hope, my understanding -- there were several of us that expressed those concerns at our last meeting when this was heard and it's my understanding that the applicants heard those concerns and they will be bringing forward -- heard those concerns and they will be bringing forward additional proposals at the next meeting.

>> Tovo: I hope that's true.

I have cycled back.

We don't have anything different before us, and we are scheduled to vote on nit two days, so my hope is that we will see something on thursday but, again, i wanted to talk with you, my colleagues about how critically important it is

that we see a different
proposal here on thursday,
in my opinion.

>> Mayor leffingwell:
Council member tovo, do you
want to talk about --
council member cole, do you
want to talk about 53?

Is that the one you
mentioned?

>> Cole: No, mayor.

I am fine.

I wanted to ask you about
c1, council member meeting
policy discussions.

Did we inadvertently skip
over that?

we
didn't skip it.

We are still on a -- we are
still on the first agenda on
the agenda -- the first item
on if agenda.

>> Cole: Okay.

We had the briefing, i
thought, okay.

are
there any other item that is
council members wanted to
discuss on the agenda?

So unfortunately, mayor pro
tem, I have to leave so you
will be finishing out.

>> Cole: Furnishing up the policy discussions.

That is a very generic posting.

[Laughter]

>> Cole: Council member spelman.

>> Spelman: I believe I am inadvertently responsible for this generic item.

The item I wanted to discuss is not as broad as policy discussion or I think paul would refer to it as city issues.

I don't know why it had to be written down this way by our legal staff.

Let me see exactly what i had in mind.

Let me be very specific.

We have in any given meeting a minimum of five opportunities for time certain.

On thursdays.

30 we do briefings and generally do briefings just about 10:30.

00 o'clock, sometimes we have the briefings extend beyond that point.

But we usually stop what we
are doing somewhere around
30 and start the
briefings.

00 o'clock, we almost
always start citizens
communication and we almost
always start just about on
30, we
almost always have live
music and proclamations and
we almost always start that
on time.

What we don't start on time
are zoning cases at
00 o'clock and public
00 o'clock and
we often have a lot of
people signed up for zoning
cases and signed up for
00 and
00 and they are sitting
around and they wait
sometimes for hours and
hours and we sometimes don't
take those cases up until 1
00 o'clock in the
morning.

It seems to me that if we
are serious as -- about
citizen communication at
00 o'clock and we are
serious about music and
30, we
ought to equally be serious
that sometimes hundreds of
people are sitting around
waiting for.

One way to be more likely to
hit our marks on the
00 o'clock and the
00 o'clock is to change

our understandings of what we are going to be doing in executive session.

Currently our executive session starts as soon as the citizens communication is over.

We talk at large, handle personnel items, whatever it is and we continue doing whatever it is we are going to do in executive session until we are done and often that goes well beyond 00 o'clock and we start talking about zoning cases only when we are done talking to our lawyers.

It seems to me we ought to take -- we ought to at least consider taking zoning cases as seriously as taking our lawyers and that at 00 o'clock we could say, okay, we have had as much executive session as we -- as is appropriate for us to have.

It's time for us to go out and deal with rezoning cases and we will come back after the zoning cases or public hearing and continue talking to our lawyers whatever we need to talk to our lawyers about.

I can understand there are going to be certain cases where we are going to need to continue discussing a

case until we have come to a logical stopping point.

We don't want to cut off our discussion in the mid of a particular item.

We need to come to logical stopping place.

But generally speaking we don't need to be in executive session until we are done being in executive 30 or 00, start dealing with 00 o'clock time concern items.

I want to know if this general understanding is something we could adopt as a general rule for going forward.

>> Cole: Council member spelman, I know I certainly agree with your analysis.

I also think it tends to end up with us into very late night meetings that we all have agreed that we do not adhere to.

I would even go so far as to say that we should have executive session items on today.

To be able to cut down on the number of executive sessions that we are having to have on council meeting days, I would go as far as to say that we would have

briefings today and we should also have executive sessions today in order to move up and be on time with our zoning items.

I was looking at the city manager -- did you have a comment?

Did you want to --

>> Ott: No.

>> Cole: You have been around and around with this?

>> Ott: No.

I think it is a good idea as well.

Also perhaps -- I was smiling because this reminds me of fort worth in that they had what they call precouncil, not work sessions but w covered -- we had briefings from staff and we also dealt with executive session in the morning and so that stuff didn't get tied on -- didn't get incorporated with the council meeting and didn't extend the evening as if the case -- as is the case here often.

So that's why I was smiling.

>> Cole: Council member morrison.

>> Morrison: I guess I would like to lend my support to

the idea of moving back to
zoning as quickly as
possible near 2:00 o'clock.

I think that's a good idea.

A couple of things.

I guess it would be -- we do
need to be cognizant of when
we invite outside council
because we don't -- outside
counsel because we don't
want them sitting around and
we need to increased
entitlements executive
sessions with that so we are
put to the effective use and
the clock isn't spinning
wildly without any help
being given.

Are you cob templating we --
contemplating we would go
00 o'clock and
finish up executive session
after the rest of the
meeting?

>> Spelman: Yes.

If we had time between
00 o'clock and
00 o'clock times, for
example, we could fit in
some of that there.

If we had time between
30
live music and
proclamations, we could fit
it in there.

It might be in bits or
pieces over the afternoon.

>> Morrison: Right, or if we didn't get to any of that and critical ones and we are finished up with the , then we could go into executive session then.

>> Spelman: That would be my understanding, yes.

>> Morrison: That might be challenging, but I do have one comment on the idea of moving things to our work session day.

I would support that but i would support that only as if there is time left after discussing items on the agenda, getting questions answered and talking with our colleagues, because to me, that -- that is -- that is an absolutely critical priority for me, to be able to work through some of those things.

I wonder -- I could envision maybe being prepared for some executive session items that might not require outside council and if there is time left before 00 o'clock, we could hear -- we could discuss those in executive session or something, but I hate to give up the discussion among us as a priority item for work session.

If you will recall earlier on, we started moving into

briefings and executive sessions and work session got to take over the ability to discuss with our colleagues and that's what is absolutely critical.

>> I would suggest that you set your order of meetings, both your council meetings and the work sessions and if that's the new direction, that maybe amend those ordinances to make sure that going forward the process.

Because, yes, we pull back on executive sessions because it's clearly not within the process that you've, established as far as what you want on your tuesday agenda, so --

>> Morrison: So we could add item e that says executive session and if we don't get to it, that's fine.

>> Yes, and that would be part of your rules that you adopted earlier this year for work session or amended them this year.

>> Council member tovo.

>> Tovo: I want to say i think it is a great idea to try and why don't we give it a shot before we amend anything, but I like -- i like the idea of trying to keep the public -- the public's involvement on

schedule because I think
it's a burden on them.

I would say let's give more
thought about when we want
to pick up the bulk of the
executive session, because
if we are starting that at
or midnight, that
means a lot of our staff,
legal and otherwise, need to
hang around all day for
that, and that's not
probably a great use of
their time, so I don't know
how we manage that exactly.

>> Morrison: Well, they are
going to be here -- excuse
me.

They are going to be here
any ways, if we are -- if we
are in executive session --
I don't know.

>> Tovo: I don't know how
that shakings out but it
seems to me we might have
some -- several of our legal
staff surely but if we have
very specific issues, there
might be staff who need to
stay until midnight with the
hope we might get to it and
my guess is if all we have
left is executive session,
we might end up tabling
those for another meeting.

>> And that's something we
need to signal, about it
looks like this will go like
and let the lawyers go home
or something.

>> Tovo: I like this suggestion.

It is great.

>> Spelman: What I was trying to put forward is not something doctrine ated where exactly at 00 o'clock we stop what we are doing and go out and just to keep in mind, it is 00 o'clock, it is time for us to go out and presume to put the lawyers on hold.

>> Tovo: If I can put up a related point.

>> Cole: Council member tovo.

>> Tovo: Sorry and apologies if you hashed this out before I got there, but it seems like two briefings in the morning sometimes contributes to throwing us off in terms of our timing for the rest of the day and so I don't know if it's -- if there has been any kind of discussion about trying to minimize the number of briefings on a council session to at most.

>> Cole: City manager.

>> Ott: These things are hard, two is -- there are times we did more than two, and so two is really pulling back.

You know, I guess if council were inclined, we could do less than that and limit it to one, but I think, you know, there are situations where that could affect, you know, business because, i mean, the briefings serve a purpose in terms of informing council oftentimes a preclude to an important decision that you are going to have to make, so it could affect business in that way.

>> Spelman: Mayor.

>> Cole: Council member spelman.

>> Spelman: We are often confused.

>> Cole: I understand.

It's the hair.

>> Spelman: Exactly.

If we -- if we -- we have an hour and a half window for briefings and I understand some briefings are much longer than others and some briefings are done not by your staff.

Therefore, you have limited control over how much time they use, but there are a way of scheduling the briefings in such a way that the two of them together would not add up to more than an hour and a half, as best as anyone can tell, i

this think that would go a long way of solving our problems.

I think what happens is sometimes two very long briefings back to back, like the briefing is long and a lot of questions as a result of it and if there is a way to see that advance and a long briefing and a short briefing or something like that.

>> Ott: We will work on that, at our cmo meeting we have these dry runs of briefings and some of them come in and they are much longer than anything you all see and we change it quite a bit and sometimes you go through and it is longer than anticipated and your point is taken and perhaps much than that, an hour and 30, that takes up your time for citizens communication, not including questions or comments you have.

>> Spelman: What you are doing is banking to our consenting on the consent agenda which is usually not a big bet.

>> Ott: That's right.

That's right.

So we will work on it.

>> Cole: There is no further questions, then this meeting at the austin city council is adjourned.